



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE

ADMINISTRATIVE ORDER NO. 2024-009

Hon. Manuel Cidre Miranda
Secretary of Economic Development and Commerce

TO CREATE AND ESTABLISH THE ECONOMIC INCENTIVES REVIEW COMMITTEE, OF
ACT NO. 60-2019, AS AMENDED, KNOWN AS THE PUERTO RICO INCENTIVES CODE

WHEREAS: The Reorganization Plan of the Department of Economic Development and Commerce of 1994, Reorganization Plan No. 4 of June 22, 1994, as amended, ("Reorganization Plan No. 4-1994") establishes the guiding principles of public policy for the economic development of Puerto Rico and the fundamental rules for the operation of the Department of Economic Development and Commerce ("DEDC", for its Spanish acronym). At the same time, Act No. 141 of July 11, 2018, as amended, known as the Act for the Implementation of the Reorganization Plan of the Department of Economic Development and Commerce of 2018 ("Act No. 141-2018") establishes that the DEDC Secretary shall have all the necessary faculties and powers for the implementation of the Reorganization Plan and the amendments contained therein.

✓ WHEREAS: Article 4 of Reorganization Plan No. 4-1994 empowers the DEDC Secretary with the authority to perform certain duties and functions conferred by this and other laws, among which the following are listed, without this constituting a limitation: (1) take the necessary measures for the efficient operation of the agency; (2) establish boards and advisory committees necessary for the proper administration of the DEDC; and (3) to perform the roles and duties legislated in the Reorganization Plan No. 4-1994, Act No. 141-2018, as well as the powers established in the organic laws of the consolidated entities in the DEDC.

WHEREAS: Act No. 60-2019, as amended, known as the "Puerto Rico Incentives Code" ("Act 60-2019" or the "Code") establishes the legal and administrative framework that regulates the requests for evaluating, granting or denying incentives applications at the Incentives Office ("IO") of the DEDC, as provided in Chapter 1, Subtitle F, Section 6011.01 of the Code.

WHEREAS: Act 60-2019 empowers the DEDC Secretary to carry out any function assigned to such role by virtue of this law, or those that, although not expressly assigned, are deemed appropriate and necessary to administer and fulfill the purposes of this law. However, Section 6011.02 of the Code, expressly provides that the DEDC Secretary may not delegate the signing of tax exemption decrees or the granting of tax credits. Likewise, the Code confers on the DEDC Secretary the power to promulgate those regulations, circular letters, administrative orders, guidance, or other general communications that are necessary to make effective the provisions and purposes of the law.

WHEREAS: In an effort to develop a process for evaluating requests for incentives and the granting of tax credits through transparent and efficient procedures, and pursuant to the provisions of Act 60-2019, an advisory committee shall be incorporated. The advisory committee will be used in the process of reviewing requests for certain incentives and/or tax credits, with the purpose of providing recommendations to the DEDC Secretary aimed at promoting investment, providing incentives to both local and foreign industries, and identifying all high-performing industries that promote the generation of new capital and the creation of jobs in Puerto Rico.

WHEREAS: For these purposes, Article 1020.01(a)-22 of Regulation No. 9248 of December 21, 2020, known as the Incentives Regulation - MO-DEC-013 ("Regulation No. 9248"), as amended on October 27, 2022, provided for the creation of the Economic Incentives Review Committee ("CRIE", for its Spanish acronym), to participate in the process of evaluating certain requests for incentives and granting of tax credits, as detailed in the aforementioned regulation.

THEREFORE: In accordance with the above and by the powers and faculties conferred to me by the Reorganization Plan No. 4-1994, Act 60-2019, and Regulation No. 9248, I, MANUEL CIDRE MIRANDA, DEDC Secretary, by virtue of these provisions, order the following:

FIRST: The CRIE is hereby established in accordance with Article 1020.01(a)-22 of Regulation No. 9248, as amended, which shall be responsible for advising and issuing recommendations to the DEDC Secretary for the following eligible sectors and activities:

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- i. Requests for Incentives (Cash Grant) or Tax Credits as provided in Subtitle C, Article 3000.02(b)-1(d) of Regulation No. 9248, as amended, exceeding three hundred thousand dollars (\$300,000), if not otherwise indicated in this Administrative Order;
 - ii. Requests for Incentives for the Development of the Puerto Rico Film Industry, as provided for in Article 5010.02(a)-1 of Regulation No. 9248, as amended, exceeding five hundred thousand dollars (\$500,000);
 - iii. Requests for Tax Credits for Purchases of Manufactured Products in Puerto Rico as provided in Article 3020.01(a)-1 of Regulation No. 9248, as amended, exceeding five hundred thousand dollars (\$500,000);
 - iv. Requests for Tax Credits for Creative Industries, as provided for in Article 3050.01 (a)-1 of Regulation No. 9248, as amended, and exceeding five hundred thousand dollars (\$500,000);
 - v. Requests for Tax Credits for industries related to the Visitor's Economy, as provided for in Article 3010.01(b)-1 of Regulation No. 9248, as amended, exceeding one million dollars (\$1,000,000);
 - vi. Requests for Tax Credits for Research and Development Projects as provided for in Article 3030.01 (a)-1 of Regulation No. 9248, as amended, exceeding five hundred thousand dollars (\$500,000).
 - vii. Petitions of amendments to Decrees granted under Previous Incentive Laws for the addition of a preferred tax rate included in an analogous chapter of the Code.

The CRIE will provide recommendations and review over policies, practices, evaluations, submissions, and reports related to Return on Investment (ROI) and its evaluation methodology, incentive audit and reporting, and transfer of credits and incentives. The CRIE's review and recommendations will be provided as required and specified in various sections of Act 60-2019, regulations such as Article 1020.01(a)-22 of Regulation No. 9248, and as may be required by any Administrative Order or Circular Letter promulgated in connection to Act 60-2019 or these regulations. Some of the circumstances in which the CRIE will review and provide recommendations include, but are not limited to, those contemplated in the following sections of Regulation No. 9248:

- i. 2014.01(a)-2(a)(8)
- ii. 2054.01(a)-1(a)
- iii. 3000.01(b)(5)-1(i)-b & (j)-a
- iv. 3000.02(a)4-1(a)
- v. 3050.01(a)-2(c)
- vi. 5010.01(f)-3(b)
- vii. 5010.01(f)-8(a)(1)(H)
- viii. 5010.01(f)-9(a)
- ix. 5010.01(f)-9(c)(2)

- x. 5010.01(f)-9(d)(1)
- xi. 5010.03(c)-1(a)
- xii. 6011.08(a)-1(a)
- xiii. 6020.01(d)(2)-1(b)
- xiv. 6020.07(a)(1)-1(a)
- xv. 6020.07(c)(1)-1(a)
- xvi. 6030.01(a)(1)-1(a)(4)

SECOND: The CRIE shall be composed of the following five (5) DEDC officials or their designated representatives: (1) the Chief Financial Officer or a person designated by the Chief Financial Officer; (2) the Director of the IO or the person designed by the Director of the IO; (3) the Director of the Strategic and Business Intelligence or a person designated by the Director of the Strategic and Business Intelligence; (4) the Auxiliary Secretary of Entrepreneurship and Business Development or a person designated by the Auxiliary Secretary of Entrepreneurship and Business Development; and (5) the Director of the Legal Advise Office or person designated by the Director of the Legal Advise Office. The appointed individuals must represent the interests of the position held by the person who appointed them to ensure balance in the committee.

THIRD: Within its duties and powers, the CRIE will have responsibilities as detailed in Regulation No. 9248, which include:

- 1. Reviewing and recommending processes and informational content for applications and transfers of credits and incentives.
- 2. Establishing work plans to evaluate applications.
- 3. Determining the frequency of meetings and the manner in which the members will meet, evaluate applications and cast their votes.
- 4. Evaluating applications and issuing recommendations on the denial or endorsement of those applications, in accordance with the parameters established in this Administrative Order and the evaluative requirements defined in the DEDC Return on Investment (ROI) Manual.
- 5. Providing consultation, review and supervision over the development and updates to the DEDC Return on Investment (ROI) Manual to be adopted via Administrative Order, as specified in Article 3000.01(b)(5)-1 of Regulation No. 9248.
- 6. Consolidating applications during the evaluation process, if it is determined that the applications seek the same end and are identified in the same classification in terms of the incentives or tax credits requested.
- 7. Preparing reports to the DEDC Secretary with analysis and recommendations regarding each application reviewed.

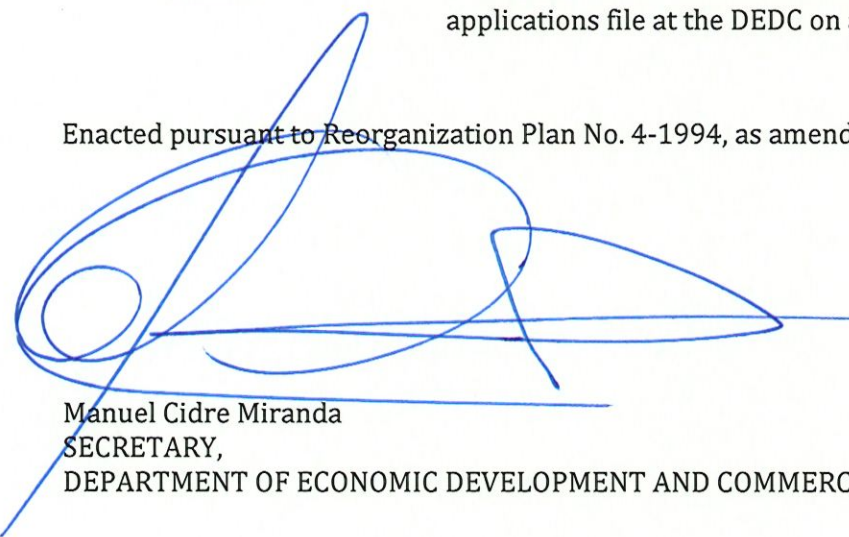
FOURTH: The IO and/or Business Development Office shall remit all applications for incentives and/or tax credits that meet the criteria established in the **FIRST** paragraph of this Administrative Order for the consideration of the CRIE within a period of no more than thirty (30) days after the IO receives the recommendations of the agencies concerned that were consulted during the evaluation process of each application.

FIFTH: The CRIE will meet at least once (1) a month to evaluate the applications for incentives and/or tax credits presented for their consideration by the IO and/or the Business Development Office. The concurrence of three (3) members will constitute a quorum. Members may delegate their voting power to a representative to enable a vote in absence or when necessary (proxy). The representative may be another member of the CRIE, or an employee of the DEDC. The votes of the CRIE shall be recorded and made available to the public for inspection. The CRIE may meet in person or virtually to discuss applications, and their respective members may cast their votes in the same manner. To issue their recommendations, the CRIE will use the ROI methodology as its main element of evaluation. Additionally, the CRIE will use the following factors for evaluating cases: (1) private investment; (2) net jobs created; (3) industry; and (4) the justification for granting the incentive or credit, among other factors. The CRIE may take into consideration both the information submitted by the applicant and the recommendations made by

the IO and by other agencies concerned. Each member of the CRIE shall issue a vote, either favorable or unfavorable, for each application under evaluation. The final recommendation of the CRIE, by a majority of the votes, shall be submitted to the DEDC Secretary no later than the first fifteen (15) days of the following month that the application has been submitted for the CRIE's consideration. When deemed necessary, the alluded fifteen (15) days may be extended by a majority of the votes. If the CRIE does not issue a recommendation within the period herein provided, or if there is a tie in the vote because a member abstained from voting and justified it, the application shall be submitted to the DEDC Secretary for consideration so that a final determination may be issued.

- SIXTH:** The CRIE will also evaluate the Annual Return on Investment (ROI) Report, by sector, in order to make recommendations to modify the Code as may be appropriate.
- SEVENTH:** SEPARABILITY. This Administrative Order shall be constituted in such a way that its validity can be maintained in accordance with applicable laws. The provisions of this Administrative Order are separate and independent of each other, so that if a court of jurisdiction and competence declares one or more provisions null, void or unconstitutional, this shall in no way affect the validity and effectiveness of the other provisions of this Administrative Order, which shall remain in full force and effect.
- EIGHTH:** NO CREATION OF ENFORCEABLE RIGHTS. This Administrative Order is not intended to create substantive or procedural rights in favor of third parties, enforceable at judicial, administrative, or any other kind, against the Government of Puerto Rico or its agencies, instrumentalities, or public corporations, or against its officers, employees, agents, or any other person.
- NINETH:** REPEALS. This Administrative Order repeals Administrative Order No. 2023-008 approved on July 17, 2023.
- TENTH:** VALIDITY. This Administrative Order shall be effective and apply to applications file at the DEDC on and after August 22, 2024.

Enacted pursuant to Reorganization Plan No. 4-1994, as amended, today, August 22, 2024.



Manuel Cidre Miranda
SECRETARY,
DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE